# 1NC CP

**A) Text:** The USFG should implement public execution as part of a retributive criminal justice system.

**B) Competition:**

**1)** CP guts any rehab solvency. You can’t rehabilitate people when you publically execute them.

**2)** CP functionally competes since it implements the entire criminal justice system as retributive, which means no room for any rehabilitation.

**3)** Net Benefits – any perm links to reasons why rehab is bad.

**C) Net-Benefits:**

## Crime Module

Each execution prevents over seventy murders. **Adler and Summers[[1]](#footnote-1):**

…our recent research shows that **each execution** carried out **is** correlated with **about 74 fewer murders the following year**... The study examined the relationship between **[from] the number of executions and** the number of **murders in the U.S. for [a]** the **26-year period** from 1979 to 2004, using data from publicly available FBI sources... There seems to be an obvious negative correlation in that **when executions increase, murders decrease, and when executions decrease, murders increase**. In the early 1980s, **the return of the death penalty was** associated with **a drop in** the number of **murders.** In the mid-to-late 1980s, when the number of executions stabilized at about 20 per year, the number of murders increased. Throughout the 1990s, our society increased the number of executions, and the number of murders plummeted. Since 2001, there has been a decline in executions and an increase in murders. It is possible that this correlated relationship could be mere coincidence, so **we did a regression analysis on the 26-year relationship. The association was significant** at the .00005 level, which meant **the odds against the pattern being simply a random happening are** about **18,000 to one.** Further analysis revealed that each execution seems to be associated with 71 fewer murders in the year the execution took place.

**Weighing: A)** Quantitative.

**B)** Incapacitation.

**C)** Cheap.

**D)** Public executions access a unique deterrent effect. People get scared. **Pojman[[2]](#footnote-2):**

**We can imagine** the **murder** rate **in the United States** and everywhere else **plummeting**. The close correlation between murder and cosmic retribution would serve as a deterrent to would-be murderers. If this thought experiment is sound, we have a prima facie argument for the deterrent effect of capital punishment. In its ideal, prompt performance, the death penalty would likely deter most rational criminally minded from committing murder. The question then becomes how do we institute the death pentalty so as to have the maximal deterrence effect without violating the rights of the accused. We would have to bring the accused to trial more quickly and limit the appeals process of those found guilty “beyond reasonable doubt.” Having DNA evidence should make this more feasible than hitherto. Furthermore, **public executions** of the convicted murderer **would serve as a reminder that crime does not pay. Public executions of criminals seem an efficient way to communicate the message** that if you shed innocent blood, **you will pay** a high price. Bedau cites Nat Hentoff’s advocacy of a public execution of Timothy McVeigh in terms of being accountable for such actions. I agree with Hentoff on the matter of accountability but also believe **such publicity would serve to deter future homicide.**

**And**, your generic deterrence fails arguments are irrelevant because they’re about general deterrence not the specific effects of executing people in public.

**E)** Crime prevention spills over internationally – public executions are broadcasted. **Leighton[[3]](#footnote-3):**

Even though a **televised execution** would be the first in the United States, the potential **effects** (good and bad) **are international since the broadcast would go out to the glob[e]**al village. **Video capture to the internet would ensure the dissemination of this image even further and preserve it for** countless **others in the future**. Also at issue is public opinion and how a televised execution would change support for capital punishment. Would the televised image contribute a 'reality' to the taking of a life so that it undermines some of symbolic support for the death penalty, or could it make people complacent with an administrative death that resembles a medical procedure? Can the United States maintain credibility when railing against human rights abuses after broadcasting to the world our use of a sanction that other industrialized democracies renounce? This paper cannot hope to resolve many of the issues surrounding televised executions, nor does it intend to. The purpose is to incite discussion. My belief is that **footage of an execution will more likely than not appear on television or the internet** at some point in the not so distant future. If this event really holds the promise of saving lives, then **we should enact laws to make a televised execution happen as part of our legislative program to build a better world.**

## Transparency Module

**Shemtob and Lat[[4]](#footnote-4):**

**Executions in the United States ought to be made public**. Right now, executions are generally open only to the press and a few select witnesses. For the rest of us, the vague contours are provided in the morning paper. Yet a **functioning democracy demands maximum accountability and transparency.** As long as executions remain behind closed doors, those are impossible. The **people** should **have the right to see what is being done in their name and with their tax dollars. This is particularly relevant given the current debate on** **whether** specific **methods** of lethal injection constitute cruel and unusual punishment and therefore **violate the Constitution. There is a dramatic difference between reading or hearing of such an event and observing it through image and sound**. (This is obvious to those who saw the footage of Saddam Hussein’s hanging in 2006 or the death of Neda Agha-Soltan during the protests in Iran in 2009.) We are not calling for opening executions completely to the public — conducting them before a live crowd — but rather for broadcasting them live or recording them for future release, on the Web or TV. When another Georgia inmate, Roy Blankenship, was executed in June, the prisoner jerked his head, grimaced, gasped and lurched, according to a medical expert’s affidavit. The Atlanta Journal-Constitution reported that Mr. DeYoung, executed in the same manner, “showed no violent signs in death.” **Voters should not have to rely on media accounts to understand what takes place when a man is put to death. Cameras record legislative sessions and presidential debates, and courtrooms are allowing greater television access**. When he was an Illinois state senator, President Obama successfully pressed for the videotaping of homicide interrogations and confessions. The most serious penalty of all surely demands equal if not greater scrutiny.

# Frontlines

## Inherency

No public executions in the squo. **Bonsor[[5]](#footnote-5):**

Executions in the United States were once a public spectacle, and the tradition persisted well into the first half of the 20th century. According to the book "The Last Public Execution in America," by Perry T. Ryan, the final public execution performed in the United States was that of a man in Kentucky, who was publicly hanged in 1936. Thousands of people came from several states to gather around the gallows and watch the execution. In some states, admission was charged. Some states began enacting laws prohibiting judicial public executions in the latter half of the 19th century. Today, executions are carried out behind prison walls with only a small group of witnesses in attendance. Every state that performs executions has legislation providing for certain people to witness them. State laws vary as to who is allowed to watch an execution, but in general, these are the people who are allowed to be witnesses: Relatives of the victim(s) Relatives of the prisoner Prison warden Medical personnel Spiritual advisor(s) Prison guards Official group of "reputable citizens" Official group of state-selected witnesses Media representatives Witnesses may arrive anywhere from 20 minutes to two hours before the scheduled execution, at which point they are escorted by prison guards into the witness room. Relatives of the victim are sometimes placed in a different room than relatives of the prisoner, but not always. Some execution chambers have a one-way mirror that only allows the witnesses to see the condemned. Others have a clear window that allows the condemned to see the witnesses as well. Once the IVs are inserted into the prisoner's arms, the curtain covering the window is drawn back. Some states require complete silence in the witness area. Once the execution is over, witnesses are escorted out by prison staff. Media and families may be taken to a press area for a press conference. The official witnesses sign a document attesting to the fact that they have witnessed the execution and that it took place. Today, the closest we come to public executions is through the use of closed-circuit TV. In some cases, there are more relatives than the witness area can hold, so an overflow room may be set up in another room inside the prison that allows family witnesses to watch the execution via closed-circuit TV. In Illinois, family members can only view the execution through closed-circuit TV.

No death penalty in the squo.

## DP is Retributive

**1.** Motivation behind implementing the death penalty is retributive. **Mandery[[6]](#footnote-6):**

This is **unquestionably** a powerful idea, and **public support for the death penalty is** – at least on the surface- largely **based on notions of retribution. In** most **polls, “an aye for an eye” or “punishment should fit the crime” is** the plurality reason **offered by proponents for their support of capital punishment**. In a 2001 Gallup poll, 48% of **respondents cited retribution as the basis for their support, more than twice the level of support offered for any other justification.**

**2.** This is the most common justification for the death penalty. **Gill[[7]](#footnote-7):**

**The theory of retribution rests**, in part, on the Old Testament and **its call for "an eye for an eye**." Proponents of retribution argue that "the punishment must fit the crime." According to [The New American](http://www.thenewamerican.com/tna/2002/06-03-2002/vo18no11_fallacies.htm" \t "_blank): "Punishment -- sometimes called **retribution -- is the main reason for imposing the death penalty." Opponents of retribution theory believe in the sanctity of life and often argue that it is just as wrong for society to kill as it is for an individual to kill**. Others argue that what drives American support for capital punishment is the "[impermanent emotion of outrage](http://www.freezerbox.com/archive/article.php?id=233" \t "_blank)." Certainly, emotion not reason seems to be the key behind support for capital punishment.

Chris Koepke, (J.D. Candidate), HOUSTON LAW REVIEW, 2008, 1405. Retributivism seems to be the key policy underpinning supporting the imposition of capital

punishment.

Susan C. Hascall, (Prof., Law, Duquesne U.), JOHN MARSHALL LAW REVIEW, Fall 2010, 47. Because retribution theory is the strongest secular theory used to support the death penalty, the question of whether allowing the victims in a capital case to express their sentencing opinions will

negatively impact the retributive objectives of the death penalty must be addressed.

Guyora Binder, (Prof., Law, State U. of New York at Buffalo Law School), BOSTON UNIVERSITY LAW REVIEW, March 2011, 430.

The Supreme Court has justified capital punishment primarily on retributive grounds, and restricted capital punishment to those unimpaired adult offenders capable of full culpability.

Kathryn McEvilly, (J.D. Candidate), DUKE JOURNAL OF CONSTITUTIONAL LAW & PUBLIC POLICY SIDEBAR, 2012, 237.

The death penalty is unique in its total irrevocability, its rejection of rehabilitation, and its absolute renunciation of all that is embodied in our concept of humanity.

## AT Costly

## AT Irrational

**Van den Haag[[8]](#footnote-8):**

Does any punishment "deter others" at all? Doubts have been thrown on this effect because it is thought to depend on the incorrect rationalistic psychology of some of its 18th and 19th century proponents. Actually deterrence does not depend on rational calculation, on rationality or even on capacity for it; nor do arguments for it depend on rationalistic psychology. Deterrence depends on the likelihood and on the regularity-not on the rationality-of human responses to danger; and further on the possibility of reinforcing internal controls by vicarious external experiences. Responsiveness to danger is generally found in human behavior; the danger can, but need not, come from the law or from society; nor need it be explicitly verbalized. Unless intent on suicide, people do not jump from high mountain cliffs, however tempted to fly through the air; and they take precautions against falling. The mere risk of injury often restrains us from doing what is otherwise attractive; we refrain even when we have no direct experience, and usually without explicit computation of probabilities, let alone conscious weighing of expected pleasure against possible pain. One abstains from dangerous acts because of vague, inchoate, habitual and, above all, pre- conscious fears. Risks and rewards are more often felt than calculated; one abstains without account- ing to oneself, because "it isn't done," or because one literally does not conceive of the action one refrains from. Animals as well refrain from painful or injurious experiences presumably without calculation; and the threat of punishment can be used to regulate their conduct.

**2. Rubin[[9]](#footnote-9):**

Recent research on the relationship between capital punishment and homicide has created a consensus among most economists who have studied the issue that capital punishment deters murder. Early studies from the 1970s and 1980s reached conflicting results. However, recent studies have exploited better data and more sophisticated statistical techniques. The modern refereed studies have consistently shown that capital punishment has a strong deterrent effect, with each execution deterring between 3 and 18 murders. This is true even for crimes that might seem not to be deterrable, such as crimes of passion.

# Util Framework

An obligation to collective utility is constitutive of government. **Goodin[[10]](#footnote-10) 1:**

The great advantage of **Util**itarianism as a guide to public conduct is that it avoids gratuitous sacrifices, it ensures as best we are able to **ensure[s]** in the uncertain world of public policy-making that policies are **sensitive[ity] to people’s interests** or desires or preferences. The great failing of more deontological theories, applied to those realms, is that they fixate upon duties done for the sake of duty rather than for the sake of any good that is done by doing one’s duty. Perhaps it is permissible (perhaps even proper) for private individuals in the course of their personal affairs to fetishize duties done for their own sake. It would be a mistake for public officials to do likewise, not least because it is impossible. The fixation on motives makes absolutely no sense in the public realm, and might make precious little sense in the private one even, as chapter 3 shows. The reason **public action** is required at all **arises from the inability of uncoordinated individual action to achieve** certain **morally desirable ends.** Individuals are rightly excused from pursing those ends. The inability is real; the excuses, perfectly valid. But libertarians are right in their diagnosis, wrong in their prescription. That is the message of chapter 2. The same thing that makes those excuses valid at the individual level – the same thing that relieves **individuals** to **organize themselves into collective units that are capable of acting where** they are isolated as **individuals are not.** When they organize themselves into these collective units, those collective deliberations inevitable take place under very different circumstances, and their conclusions inevitably take very different forms. Individuals are morally required to operate in that collective, in certain crucial respects. But **they are practically circumscribed in how they** can **operate**, in their collective mode. And **those** special **constraints** characterizing the public sphere of decision-making **give rise to the special circumstances that make utilitarianism** peculiarly **apt for public policy-making**, in ways set out more fully in chapter 4. Government house utilitarianism thus understood is, I would argue, a uniquely defensible public philosophy.

**And,** util is theonly epistemically accessible theory to governments. **Goodin 2[[11]](#footnote-11):**

Consider, first, the argument from necessity. **Public officials are obliged to make their choices under uncertainty,** and uncertainty of a very special sort at that. All choices – public and private alike – are made under some degree of uncertainty, of course. But in the nature of things, private **individuals** will usually **have more complete information on the peculiarities of their own circumstances and on the ramifications that alternative possible choice**s might **have** for them. **Public officials**, in contrast, are relatively poorly informed as to what effects that their choices will have on individuals, one by one. What they typically do **know** are generalities: averages and aggregates. They know **what will happen most often to most people as a result of their various possible choices**. But that is all. **That is enough to allow public policy-makers to use utilitarian calculus** – if they want to use it at all – to chose general rules of conduct. **Knowing aggregates and averages, they** can proceed to **calculate the utility** payoffs from **[of ]a**dopting each alternative possible **general rule**.

**Thus**, the standard is maximizing expected well-being.Framework specific to government obligation comes first because **A)** most textual interpretation of the resolution because it concerns governments, and **B)** unique area of the topic lit since nobody asks whether a single person should give people rehab.

# Card File

**Muhlhausen[[12]](#footnote-12):**

Numerous studies published over the past few years, using panel data sets and sophisticated social science techniques, are demonstrating that the death penalty saves lives. Panel studies observe multiple units over several periods. The addition of multiple data collection points gives the results of capital punishment panel studies substantially more credibility than the results of studies that have only single before-and-after intervention measures. Further, the longitudinal nature of the panel data allows researchers to analyze the impact of the death penalty over time that cross-sectional data sets cannot address. Using a panel data set of over 3,000 counties from 1977 to 1996, Professors Hashem Dezhbakhsh, Paul R. Rubin, and Joanna M. Shepherd of Emory University found that each execution, on average, results in 18 fewer murders.[[17]](http://www.heritage.org/research/testimony/the-death-penalty-deters-crime-and-saves-lives" \l "_edn17" \o ") Using state-level panel data from 1960 to 2000, Professors Dezhbakhsh and Shepherd were able to compare the relationship between executions and murder incidents before, during, and after the U.S. Supreme Court's death penalty moratorium.[[18]](http://www.heritage.org/research/testimony/the-death-penalty-deters-crime-and-saves-lives" \l "_edn18" \o ") They found that executions had a highly significant negative relationship with murder incidents. Additionally, the implementation of state moratoria is associated with the increased incidence of murders. Separately, Professor Shepherd's analysis of monthly data from 1977 to 1999 found three important findings.[[19]](http://www.heritage.org/research/testimony/the-death-penalty-deters-crime-and-saves-lives" \l "_edn19" \o ") *First,* each execution, on average, is associated with three fewer murders. The deterred murders included both crimes of passion and murders by intimates. *Second,* executions deter the murder of whites and African-Americans. Each execution prevents the murder of one white person, 1.5 African-Americans, and 0.5 persons of other races. *Third,* shorter waits on death row are associated with increased deterrence. For each additional 2.75-year reduction in the death row wait until execution, one murder is deterred. Professors H. Naci Mocan and R. Kaj Gittings of the University of Colorado at Denver have published two studies confirming the deterrent effect of capital punishment. The first study used state-level data from 1977 to 1997 to analyze the influence of executions, commutations, and removals from death row on the incidence of murder.[[20]](http://www.heritage.org/research/testimony/the-death-penalty-deters-crime-and-saves-lives" \l "_edn20" \o ") For each additional execution, on average, about five murders were deterred. Alternatively, for each additional commutation, on average, five additional murders resulted. A removal from death row by either state courts or the U.S. Supreme Court is associated with an increase of one additional murder. Addressing criticism of their work,[21] Professors Mocan and Gittings conducted additional analyses and found that their original findings provided robust support for the deterrent effect of capital punishment.[[22]](http://www.heritage.org/research/testimony/the-death-penalty-deters-crime-and-saves-lives" \l "_edn22" \o ") Two studies by Paul R. Zimmerman, a Federal Communications Commission economist, also support the deterrent effect of capital punishment. Using state-level data from 1978 to 1997, Zimmerman found that each additional execution, on average, results in 14 fewer murders.[[23]](http://www.heritage.org/research/testimony/the-death-penalty-deters-crime-and-saves-lives" \l "_edn23" \o ") Zimmerman's second study, using similar data, found that executions conducted by electrocution are the most effective at providing deterrence.[[24]](http://www.heritage.org/research/testimony/the-death-penalty-deters-crime-and-saves-lives" \l "_edn24" \o ") Using a small state-level data set from 1995 to 1999, Professor Robert B. Ekelund of Auburn University and his colleagues analyzed the effect that executions have on single incidents of murder and multiple incidents of murder.[[25]](http://www.heritage.org/research/testimony/the-death-penalty-deters-crime-and-saves-lives" \l "_edn25" \o ") They found that executions reduced single murder rates, while there was no effect on multiple murder rates. In summary, the recent studies using panel data techniques have confirmed what we learned decades ago: Capital punishment does, in fact, save lives. Each additional execution appears to deter between three and 18 murders. While opponents of capital punishment allege that it is unfairly used against African-Americans, each additional execution deters the murder of 1.5 African-Americans. Further moratoria, commuted sentences, and death row removals appear to increase the incidence of murder.

1. Roy Adler and Michael Summers, [PhD, MBA, Professor of Management Science at Pepperdine University], *Wall Street Journal,* November 2nd, 2007. SM [↑](#footnote-ref-1)
2. Louis P. Pojman, [PhD, former Professor Emeritus of Philosophy at West Point Military Academy], "Why the Death Penalty Is Morally Permissible," from *Debating the Death Penalty: Should America Have Capital Punishment? The Experts on Both Sides Make Their Best Case*, Adam Bedaus, 2004. SM [↑](#footnote-ref-2)
3. Paul Leighton, [Eastern Michigan University], “Fear and Loathing in an Age of Show Business: Reflections on Televised Executions,” American Society of Criminology, 1999. SM [↑](#footnote-ref-3)
4. ZACHARY B. SHEMTOB and DAVID LAT, [Mr. Shemtob is an assistant professor of criminal justice at Central Connecticut State University. Mr. Lat, a former federal prosecutor, is the founder of Above the Law, a legal blog], “Executions Should be Televised,” The New York Times, July 29th, 2012. SM [↑](#footnote-ref-4)
5. Kevin Bonsor, "Methods of Execution Have Changed with the Times," *USAToday,* May 10, 2001. [↑](#footnote-ref-5)
6. [http://samples.jbpub.com/9781449605988/05988\_CH01\_Mandery.pdf](https://docs.google.com/viewer?url=http%3A%2F%2Fsamples.jbpub.com%2F9781449605988%2F05988_CH01_Mandery.pdf" \t "_blank), Evan J. Mandary [↑](#footnote-ref-6)
7. Kathy Gill, “Pros and Cons of the Death Penalty,” *About.com*, http://uspolitics.about.com/od/deathpenalty/i/death\_penalty.htm [↑](#footnote-ref-7)
8. On Deterrence and the Death Penalty Author(s): Ernest Van Den Haag Source: The Journal of Criminal Law, Criminology, and Police Science, Vol. 60, No. 2 (Jun., 1969), pp. 141-147 [↑](#footnote-ref-8)
9. Paul H. Rubin, [PhD, Professor of Economics at Emory University], "Statistical Evidence on Capital Punishment and the Deterrence of Homicide,” Feb. 1, 2006. SM [↑](#footnote-ref-9)
10. [Robert E. Goodin. Philosopher of Political Theory, Public Policy, and Applied Ethics, *Utilitarianism as a Public Philosophy*, Cambridge University Press, 1995. p. 26-7] [↑](#footnote-ref-10)
11. Robert, philsopher at the Research School of the Social Sciences, Utilitarianism as Public Philosophy. P. 62-63 [↑](#footnote-ref-11)
12. The Death Penalty Deters Crime and Saves Lives By [David B. Muhlhausen, Ph.D.](http://www.heritage.org/about/staff/m/david-muhlhausen), *The Heritage Foundation,* August 28, 2007. SM [↑](#footnote-ref-12)